experts are not admissible when the inquiry is into the subject matter, the nature of which is not such as to require any peculiar habits or study in order to qualify a man to understand it. *Jones* v. *Tucker*, 41 N. H. 546; *New England Glass Co.* v. *Lowell*, 7 Cush. 319; *Graham* v. *Pann Co.*, 139 Pa. St. 149.

In the present case the doctor was allowed to testify that the plaintiff was rendered a helpless paralytic by the injury and that such condition is likely to be permanent. This seems to be in accordance with the general rule, that an expert can testify as to the effect, nature, and extent of personal injuries, and what are the probable results that would follow from an injury. *Albert* v. *N. Y. L. E. W. R. Co.*, 118 N. Y. 77; *Fiber* v. *N. Y. Central R. Co.*, 49 N. Y. 42; *Rowell* v. *City of Lowell*, 11 Gray, 420; *Evansville & T. H. R. Co.* v. *Crest*, 116 Ind. 446; *Louisville N. A. & C. R. Co.* v. *Wood*, 113 Ind. 54.

In *Fiber* v. *New York Central R. R. Co.*, Allen, J., in the opinion of the court says there is no evidence other than that of experts by which courts and juries can determine whether a disease or an injury has been or can be permanently cured or what its effect will be upon the health and capability of the injured person in the future.

In *Albert* v. *N. Y. L. E. W. R. Co.*, the witness was asked to state length of time plaintiff might live in the natural course of events, and it was held to be no error.

Thus it would seem to follow as a natural consequence that testimony that plaintiff would require medical attention and nursing in the future, and to what extent, would be admissible, but the court excluded it upon the somewhat inconceivable ground that such evidence entered the domain of *common knowledge*, and that the jury were as able to arrive at that conclusion without the aid of his opinion as with it. In the course of the opinion of the court, Bardeem, J., remarks: "There are experts and experts, and many of them testify like retained witnesses, and that very much of such testimony is of little more value than an intelligent guess," but we are unable to see how that which simply affects the credibility of a witness can bar the admissibility of his testimony. The rules affecting credibility of witnesses and admissibility of evidence are separate and distinct.

One of the objections to the admissibility of the testimony is, says the learned judge, that its tendency was to increase the damages and swell a recovery. But what could be more reasonable for to quote from a prior part of the opinion, "it is sufficient if the damage claimed legitimately flows directly from the negligent act, whether such damage might be foreseen by the wrong doer or not."

In a dissenting opinion, Dodge, J., says that while "the testimony may approach the field of common knowledge, from which expert testimony should be carefully excluded, it does not prejudicially cross the line." The present case was one of severe spinal injury and disordered nervous system, with which the ordinary juror is strangely unfamiliar, and in which the opinion of a physician would be very valuable, while a non-professional would be totally at sea. In short, the testimony in reality did not invade the ground of common knowledge, but merely invoked the peculiar knowledge and opinion of a medical expert, and for this reason should have been held admissible.

PUBLIC LANDS—MEXICAN GRANTS—RIGHTS OF INDIANS—HARVEY ET AL. V. BARKER ET AL., 58 Pac. Rep. 692 (Cal.).—Defendants, Mission Indians, claimed a prescriptive title to certain lands included within the boundaries of a Mexican grant, which grant was confirmed by the United States and a patent thereto issued to plaintiff's grantor. Defendants did not present their claim to the land commissioners for confirmation, as provided under Act Cong., March 3, 1851. Plaintiff took the land subject to the condition that he should not interfere with roads, cross roads and other usages (servidumbres). *Held*, that said grant was not subject to any right or interest in the defendants, and that no trust relation existed between the grantor and defendants.

The decision is by an evenly divided court. The dissenting judges seem to adopt the better line of reasoning, which is borne out by a long line of decisions. *Teschemacher et al.* v. *Thompson et al.*, 18 Cal. 11. When Mexico gained her independence it was declared that all inhabitants, including Indians, should be considered citizens, and that the property of every citizen should be respected and protected. *Treaty of Guadalupe Hidalgo.* Mexicans who, previous to the acquisition of California by the United States, had acquired title to lands from that government, and who chose to remain, held such title and were protected the same as if no change in sovereignty had occurred. *Phelan et al.* v. *Poyoreno et al.*, 74 Cal. 448.

The defendants relied upon *Byrne* v. *Alas*, 74 Cal. 628, which is an almost parallel case. Here, as in the case under consideration, the appellants failed to present their claim to the land commissioners. The court held that it was not necessary, and that they were not even charged with knowing that there was such a commission.

C. J., Beatty, who dissented, pointed out that the only difference in the case under review and *Byrne* v. *Alas* was that there was no provision quoted, that the plaintiff took the land subject that he should in no way disturb nor molest the Indians who were living thereon. But he calls attention to the fact that the plaintiff should not interfere with roads or other "servidumbres," and that the word "servidumbres" had a meaning in Spanish law broad enough to include the right of occupancy claimed by the defendants.

In addition to the above, another of the dissenting judges contended that the defendants would still have had the right to occupy the land had there been no express reservation, for the Indians being mere wards of the nation, it is to be presumed that the nation has always recognized and protected their customary rights, and that all grants are made with the understanding that grantees know those rights, and take subject to them.

RAILROADS—INJURY TO ADJOINING LAND—SYRACUSE SOLAR-SALT CO. v. ROME, W. & O. R. R. Co., 60 N. Y. Sup. 40.—Where a railroad company operated under statute and municipal license its track upon a city street, and thereby cart such dirt, cinders and soot upon the plaintiff's premises adjoining, as to cause him great damage in the prosecution of his business, the manufacture of salt, diminishing its quantity, quality and value. *Held*, that the plaintiff was entitled to compensation.

The defendant in this case relied, with apparent reason, on the case of *Forbes* v. *Railroad Co.*, 121 N. Y. 505. It was held in that case that a railroad operating its road under proper authority upon a city street, took no adjoining property and was not liable to the owner of such property for any consequential damages resulting from a natural use of the road for railroad purposes.

But that decision is now limited by this case, the court saying that it is a "very broad statement of the rule and must be taken with some qualification."

The Legislature may authorize a small nuisance, but where it greatly exceeds the nature of an inconvenience and causes great damage, compensation must be allowed.

The court holds that this case presents the fact of a taking of plaintiff's property, because proprietary rights must be considered here as valuable property. *Arimond* v. *Green Bay, etc., Co.*, 31 Wis. 316, 335. Such use is an easement on the plaintiff's property. *2 Washburn on Real Property*, 4th Ed. 299; *Long Island R. R. Co.* v. *Garvey*, 159 N. Y. 338.

SALE OF LIQUOR BY DRUGGIST — TOWN ORDINANCE — PEOPLE V. BRAISTED, 58 Pac. Rep. 796 (Colo.).—A town attorney furnished a person with money to purchase liquor from a druggist who had no permit. By such a sale the druggist would violate a town ordinance. *Held*, that the town could not recover a penalty for a violation of its ordinance instigated and procured by its officer.